

Business law. hire purchase

[Law](#), [Contract Law](#)



HIRE PURCHASE a) Sam is a successful second hand dealer. He decides to reward his staff by buying a fridge and a microwave oven for their use. He wants to enter into a hire purchase agreement to help him finance the two goods. Advise Sam whether these goods will be covered by the Hire Purchase Act 1967? Issue The issue in this case was whether those goods fridge and microwave will be covered by the Hire Purchase Act 1967.

Hire purchase is a system of acquiring goods on credit whereby the seller of the goods is regarded as the dealer, the purchaser is regarded as the hirer and the financier as the owner. In this situation, Sam is the hirer that because he decided to purchase goods under hire purchase. The ownership of the goods bought on hire purchase does not pass to the hirer at the time of the hire purchase agreement or upon delivery of the goods. The ownership of the goods remains in the financier until the hirer has fully settled the price agreed upon in the hire purchase agreement.

Hire purchase is commonly carried out in the form of a triangular transaction. The dealer/seller/vendor sells the goods to the financier, which becomes the owner, in return for an immediate payment, which is the cash price less deposit paid by the buyer/consumer, known as the hirer. The owner then hires the goods to the hirer under a hire purchase agreement. [pic] Hire Purchase Transaction Hire Purchase Act 1967 is an act to regulate the form and contents of hire-purchase agreements and the rights and duties of parties to such documents.

The act is under the jurisdiction of the Ministry of Domestic Trade and Consumer Affairs. It does not set down any licensing requirements but provides for the regulation of hire purchase activities relating to scheduled <https://assignbuster.com/business-law-hire-purchase/>

goods. According to section 2 of the Hire Purchase Act, hire purchase includes a letting of goods with an option to purchase and an agreement for the purchase of goods by installments (whether the agreement describes the installment as rent or as hire or as otherwise), but does not include any agreement:) Whereby the property in the goods passes at the time of the agreement or upon or at anytime before delivery of the goods, or b) Under which the person by whom the goods are being hired or purchased is a person who is engaged in the trade or business of selling goods of the same nature or description as the goods comprised in the agreement. Based on the above, subsection (a) seeks to exclude outright sale (ownership transfers to buyer upon sale). Likewise, a dealer cannot finance his stock under hire purchase as the owner and hirer cannot be the same person.

Only the following goods can be bough on hire purchase. Definition of scheduled goods Hire Purchase Act 1967 (Act Goods as per First Schedule of the Act) • All consumer goods (goods purchased for personal, family and household purposes) and • Motor vehicle namely ? Invalid carriages ? Motor cycles ? Motors cars including taxi cabs and hire cars ? Goods vehicles where the maximum permissible laden weight does not exceed 2540 kilograms and ? Buses, including stage buses. Consumer goods” is defined in section 2(1) to mean “ goods purchased for personal, family and house hold purposes”. In consequence, goods (other than motor vehicles) which would normally be regarded as consumer goods but purchased for business purposes or use, such as for consumption in the office, are excluded from the Act. However, these appear to be an inconsistency. While section 1(2) declares that the Act applies ‘ in respect only of hire purchase agreement relating to goods

specified in the First Schedule’, section 4(1) mentions hire purchase agreement’ in respect of any goods’.

Is this an oversight in drifting or is section 4 intended to bind hire purchased agreement ‘ in respect of any goods’? To avoid the inconsistency, one approach would be to read the expression ‘ any goods’ by reference to section 1(2) to mean ‘ any goods listed in the First Schedule’. By virtue of section 2(1), goods also include any replacements or renewals by the hirer of any part or parts and any accessories added by the hirer during the period of the hiring. Case The relevant case here is in Kesang Leasing Sdn Bhd v.

Mohd Yusuf bin Ismail [1990]. The High Court held that section 1(2) did not exclude the application of provisions of the Act to hire purchase agreements in respects of goods outside it coverage provided the parties to an agreement consented to be bound by them. This construction has doubtless extended the scope of the Act to allow parties the liberty of agreeing to be bound by the Act in respect of those goods not ordinary regulated. In that case, the parties have agreed to be bound by provisions of the Act in respect of a computer. Conclusion

As the conclusion, according to hire purchase agreements relating to goods specified in the First Schedule of the said Act under section 1(2) Hire Purchase Act 1967, fridge and microwave was listed as a consumer goods so it was covered by the Hire Purchase Act 1967. Sam can enter a hire purchase agreement to finance the goods. a) Laili visits a seconds hand car showroom, and sees car which is very suitable for her but slightly pricey. She wants to buy the car, but is reluctant, because she feels there are too many formalities when entering into a hire purchase agreement.

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However, Samy the second hand dealer tells her, “ Don’t worry madam. You can even enter into a hire purchase agreement orally. No signature is even required. ” Is this true? Advise Laili. Issue The issue in this situation was can Laili enter into hire purchase agreement orally and no without any signature required. Formation and Contents of Hire-Purchase Agreements According to section 4A of Hire Purchase Act 1967 (1) A hire-purchase agreement in respect of any goods specified in the First Schedule shall be in writing. (2) A hire-purchase agreement that does not comply with subsection (1) shall be void. 3) An owner who enters into hire-purchase agreement that does not comply with subsection (1) shall, notwithstanding that the hire-purchase agreement is void, be guilty of an offence under this Act. According to section 4B of Hire Purchase 1967 (1) Every hire-purchase agreement shall be signed by or on behalf of all parties to the agreement. (2) No owner, dealer, agent or person acting on behalf of the owner shall require or cause any intending hirer or his agent to sign a hire-purchase agreement or any other form or document relating to a hire-purchase agreement unless such hire-purchase agreement, form or document has been duly completed. 3) A hire-purchase agreement that does not comply with subsection (1) and (2) shall be void. (4) An owner, dealer, agent or person acting on behalf of the owner who- (a) Enters into a hire-purchase agreement in contravention of subsection (1); or (b) Requires or causes an intending hirer or his agent to sign a hire-purchase agreement in contravention of subsection (2), shall, notwithstanding that the hire-purchase agreement is void, be guilty of an offence under this Act. Case

The relevant case here is in *Ming Lian Corporation Sdn Bhd v. Haji Nordin* [1974]. In the case, the High Court held that the enforceability of a hire purchase agreement was not affected if the hired signed with blank spaces which were later filled in by the owner, provided by the hirer was aware of the term and knew what he was signing. Conclusion As a conclusion, hire purchase agreement shall be in writing and shall be signed by or on behalf of all parties to the agreement if not it shall be void.

So Laili is required to enter into a hire purchase agreement in writing and signed by or on behalf of all parties to the agreement and Samy, the second hand dealer is guilty of an offence under Hire Purchase Act. b) Lim enters into a single hire purchase agreement for two goods he buys, a motorcycle and a second hand car. When he signs the hire purchase agreement he notices that the date of commencement of the hiring, and the number of installments have not been filled in. advise Lim whether this hire purchase agreement conforms to the requirements of the Hire Purchase Act 1967 ?

Issue The issue was information that needs to be put in the hire purchase agreement. Information that need to be put in the agreement According to section 4C of Hire Purchase Act 1967 (1) Every hire-purchase agreement- (a) Shall- (i) Specify a date on which the hiring shall be deemed to have commenced; (ii) Specify the number of installments to be paid under the agreement by the hirer; (iii) specify the amounts of each of these installments and the person to whom and the place at which the payments of these installments are to be made; iv) Specify the time for the payment of each of those installments; (v) Contain a description of the goods sufficient to identify them; (vi) Specify the address where the goods under the hire-

purchase agreement are; Where any part of the consideration is not cash, for example a trade in as part consideration, there must be a description of that part of the consideration. In addition, the hire purchase agreement must provide a table containing the following information: 1) The cash of the goods) The deposit showing separately the amount paid in cash and the amount provided by consideration other than cash 3) Delivery or freight charges, if any 4) Vehicle registration fees, if applicable 5) Insurance 6) The total amount referred to above less the deposit 7) Term charges 8) The annual percentage rate for term charges 9) The total amount in items 6 and 7 above and 10) The total amount payable. The agreement must not contain any particulars which are inconsistent in any material way from the particulars contained in the mandatory pre-contractual written statements served on the prospective hirer.

A hire purchase agreement that contravenes any of the above requirements is void and the owner who enters into such an agreement is guilty of an offence. Separate Agreement Where more than one item of goods is purchased, there must be a separate hire purchase agreement in respect of every item. Any goods which are essentially similar or complementary to each other and sold as a set are regarded as an item. A contravention of these requirements renders the agreement void and the owner guilty of an offence according to section 4D of Hire Purchase Act 1967. Conclusion

As a conclusion, based on the situation it is required to the information of date of commencement of the hiring and the number of installments to be filled in the hire purchase agreement. So it best for Lim to enter a complete hire purchase agreement or the agreement shall be void. Hire purchase

agreement also has to be in separate hire purchase agreement in respect of every item. References Beatrix Vohrah and Wu Min Aun, The Commercial Law of Malaysia, 2nd Edition, Longman Lee Mei Phang, General Principle of Malaysian Law, 5th Edition, Oxford Fajar [http://www. leonghousing. com/Hire-purchaseAct&Regulations. pdf](http://www.leonghousing.com/Hire-purchaseAct&Regulations.pdf)